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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,024	03/23/2004	Guy M. Benhaim	7019P001	5694

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EXAMINER
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BOAKYE, ALEXANDER O

ART UNIT	PAPER NUMBER
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2616

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01/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/808,024	Applicant(s) BENHAIM ET AL.	
	Examiner ALEXANDER BOAKYE	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-16, 18-20, 24 is/are rejected.
- 7) ☒ Claim(s) 5, 17 and 21-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-8, 9-16, 18-20, 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ghaibeh et al. (US Patent # 5,978,374).

Regarding claims 1, 2, Ghaibeh teaches an apparatus (Fig. 1) comprising: a transmitter (36) for transmitting information towards at least a first network unit (26) and a second network unit (26); a receiver (35) for receiving information transmitted from at least one network unit (column 4, lines 13-21 ); and a media access controller ( 28) for issuing data grants (permit)(lines 11-15 of the abstract); wherein at least one data grant authorizes a first network unit to transmit data at a first bit-rate (622.08Mbps) during at least one time-slot (column 4, lines 40-55 ; the claimed first bit rate corresponds to 622.08Mbps)

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and at least one other data grant (permit) authorizes a second network unit to transmit data at a second bit-rate (311.04Mbps) during at least one other time-slot, whereas the second bit-rate differs from the first bit-rate (column 4, lines 56-62; the claimed second bit rate corresponds to 311.04Mbps).

Regarding claim 3, Ghaibeh further teaches that the cells are Asynchronous Transfer Mode cells (column 3, lines 8-14).

Regarding claim 4, Ghaibeh further teaches that the first bit-rate (622.08Mbps) is much slower than the second bit-rate (311.04Mbps).

Regarding claim 6, Ghaibeh further teaches that the receiver (35) has at least one reception path (25) adapted to receive information bursts of at least one bit-rate (lines 19-21 of the abstract).

Regarding claim 7, Ghaibeh further teaches adapted to receive information reflecting at least one bit-rate out of the first bit-rate (622.08Mbps) and the second bit-rate (311.04 Mbps; lines 1-21 of the abstract).

Regarding claim 8, Ghaibeh further teaches adapted to request a network unit (ONU) capable of transmitting (36) at multiple bit-rates to transmit at certain bit-rate out of said multiple bit-rates (column 4, lines 22-61).

Regarding claim 9, Ghaibeh teaches that the apparatus selects the certain bi-rate in response to network related information previously transmitted from the network unit (column 11, lines 28-46).

Regarding claim 10, Ghaibeh further teaches that the apparatus selects (258) the certain bit-rate in response to bit-rates of the other network units that are coupled to the apparatus (28).

Regarding claim 11, Ghaibeh further teaches that the apparatus select the certain bit-rate in response to bandwidth requirements (column 11, lines 28-46).

Regarding claim 12, Ghaibeh further teaches that the receiver (35) comprises a first path (25) adapted to receive transmissions of a first bit-rate (622.08Mbps) and further comprises a second path adapted to receive transmissions of a second bit-rate (311.04Mbps).

Regarding claim 13, Ghaibeh teaches a method for allocating upstream bandwidth of a shared upstream channel of an optical network , the optical network interconnecting an apparatus (Fig. 1) with at least a first network unit (26) and a second network unit (26), the method comprising the stages of: receiving (35) requests (136) for transmitting information towards the apparatus entity (column 4, lines 40-55 ); and issuing data grants (permits) in response to the requests (column 6, lines 39-45 and lines 11-15 of the abstract); wherein at least one data grant authorizes a first network unit (26) to transmit (36) data at a first bit-rate (66.08Mbps) during at least one time-slot

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and at least one other data grant authorizes a second network unit (26) to transmit data at a second bit-rate (311.04Mbps) during at least one other time-slot, whereas the second bit-rate differs from the first bit-rate (column 4, lines 56-62; the claimed second bit rate corresponds to 311.04Mbps).

Regarding claim 14, Lee further teaches that a data grant authorizes a network unit to transmit at least one cell during at least one time-slot (column 3, lines 1-27).

Claim 15 is met as previously discussed with respect to claim 3.

Claim 16 is met as previously discussed with respect to claim 4.

Regarding claim 18, Ghaibeh further teaches a stage of receiving (35), at the apparatus (20), information from at least one network (column 4, lines 22-39).

Regarding claim 19, Ghaibeh further teaches adapted to receive (35) information reflecting at least one bit-rate (622.08Mbps) out of the first bit-rate and the second bit-rate (311.04 Mbps).

Claim 20 is met as previously discussed with respect to claim 8.

Regarding 24, Ghaibeh teaches a computer readable medium (Fig.1) having code embodied therein for causing an electronic device to perform the stages of: receiving requests for transmitting information from a network unit, over an optical network (20), towards an apparatus (column 4, lines 40-55);

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and issuing data grants (permits) in response to at least the requests (column 6, lines 39-45 and lines 11-15 of the abstract); wherein at least one data grant authorizes a first network unit to transmit data at a first bit-rate (622.08Mbps) during at least one time-slot and at least one other data grant authorizes a second network unit to transmit data at a second bit-rate during at least one other time-slot, whereas the second bit-rate (311.04Mbps) differs from the first bit-rate (column 4, lines 56-62).

#### ***Allowable Subject Matter***

3. Claims 5,17, 21-23 would be allowable if rewritten to overcome the objections, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

#### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571)

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272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272-3179. The Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or PUBLIC PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Electronic Business Center (EBC)** numbers at 866-217-9197 and 703-305-3028.

Alexander Boakye

Patent Examiner  
AB  
01/20/08

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER

1/20/08